

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :
- v. - : AMENDED CONSENT
DEVON SMITH, : PRELIMINARY ORDER OF
Defendant. : FORFEITURE/
: MONEY JUDGMENT
: 20 Cr. 563 (JPO)
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WHEREAS, on or about October 22, 2020, DEVON SMITH, (the "Defendant"), was charged, among others, in a four-count Sealed Indictment, 20 Cr. 563 (JPO), with conspiracy to steal government funds, in violation of Title 18, United States Code, Section 371 (Count One); conspiracy to commit bank fraud, in violation of Title 18, United States Code, Sections 1349 (Count Two); and aggravated identity theft, in violation of Title 18, United States Code, Sections 1028A(a)(1), 1028A(b), and 2 (Counts Three and Four);

WHEREAS, the Indictment included a forfeiture allegation as to Count One of the Indictment, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), of any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense charged in Count One of the Indictment, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offense charged in Count One of the Indictment;

WHEREAS, on or about September 9, 2021, the Defendant pled guilty to Count One of the Indictment, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Count One of the Indictment and agreed to forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28

United States Code, Section 2461(c), a sum of money equal to \$65,000 in United States currency, representing proceeds traceable to the commission of the offense charged in Count One of the Indictment;

WHEREAS, the Court previously entered a consent preliminary order of forfeiture with a money judgment in the amount of \$65,500 in United States currency (the "Prior Order"), and the Government has subsequently determined that the Prior Order should be amended; and

WHEREAS, the Defendant consents to the entry of an amended money judgment in the amount of \$14,500 in United States currency representing the amount of proceeds traceable to the offense charged in Count One of the Indictment that the Defendant personally obtained; and

WHEREAS, the Defendant admits that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offense charged in Count One of the Indictment that the Defendant personally obtained cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistant United States Attorney, Kaylan Lasky of counsel, and the Defendant, and his counsel, Valerie Gotlib, Esq., that:

1. As a result of the offense charged in Count One of the Indictment, to which the Defendant pled guilty, an amended money judgment in the amount of \$14,500 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offense charged in Count One of the Indictment that the Defendant personally obtained, shall be entered against the Defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Amended Consent Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant,

and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding amended money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the Defendant's name and case number.

4. The United States Marshals Service is authorized to deposit the payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

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7. The Court shall retain jurisdiction to enforce this Amended Consent Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

AGREED AND CONSENTED TO:

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By: /s/ KAYLAN E. LASKY 2/9/2022
KAYLAN E. LASKY
Assistant United States Attorney
One St. Andrew's Plaza
New York, NY 10007
(212) 637-2315
DATE

DEVON SMITH

By: /s/ Devon Smith (VAG) 2/9/2022
DEVON SMITH
DATE

By: /s/ Valerie A. Gotlib 2/9/2022
VALERIE GOTLIB, ESQ.
Attorney for Defendant
225 Broadway, Suite 2815
New York, NY 10007
(917) 536-8171
DATE

SO ORDERED

HONORABLE J. PAUL OETKEN
UNITED STATES DISTRICT JUDGE

2/9/2022
DATE